

REMARKS

Claim 14 has been amended. New claims 24 and 25 have been added. Thus, claims 1-12 and 14-25 are presented for examination. Support for the new claims may be found in original claims 1, 3, 14, 16, and throughout the specification. Thus, no new matter has been added. Reconsideration and withdrawal of the present rejections in view of the amendments and comments presented herein are respectfully requested.

35 U.S.C. § 112, second paragraph rejection

The Examiner rejected claims 14-23 under U.S.C. § 112, second paragraph, as being indefinite because the claims allegedly recite no method steps, only a labeling material structure having tamper resistant properties. Claim 14 as amended recites a method step of incorporating a labelling material onto the product by an adhesive bond. New method claim 25 recites similar language concerning the method step to be performed.

In view of the claim amendments, reconsideration and withdrawal of the rejection under U.S.C. § 112, second paragraph are respectfully requested.

35 U.S.C. § 103(a) rejection

The Examiner rejected claims 1-12 and 14-23 under 35 U.S.C. § 103(a) as being unpatentable over WO02/076733. The Examiner alleges that this reference discloses what the Examiner believes would be an anticipation of the structures of claims 1 and 14, as well as quite a few of the dependent claims. The Examiner also states that "since it is believed that the reference teaches such a large number of possible embodiments and the precise structures of claim 1 (and 14) do not appear to be specifically taught in one embodiment, that an obviousness rejection has been relied upon."

The PCT publication cited by the Examiner is not available as prior art for purposes of an obviousness rejection. The PCT application was filed on March 21, 2002, and published on October 3, 2002. The present application has a priority date of July 10, 2002. Thus, the PCT application might potentially qualify as prior art only under 35 U.S.C. 102(e). However, pursuant to 35 U.S.C. 103(c), if the 102(e) "prior art" patent application was commonly owned by, or subject to an obligation of assignment to, the same person, at the time the invention was made, then the prior art reference cannot be used for obviousness purposes. At the time the

present invention was made, the PCT publication cited by the Examiner, and the present application, were commonly owned by virtue of an assignment to Arjobex Limited. The PCT publication itself indicates that Arjobex Limited is the Applicant. Moreover, the Assignment of the present application to Arjobex Limited is recorded at Reel/Frame 016748/0661, and the Assignment of the U.S. national phase of the cited PCT publication is recorded at Reel/Frame 016409/0709. Thus, this PCT publication is not available as prior art for obviousness purposes against the present claims.

In view of the comments provided above, reconsideration and withdrawn of the rejection under 35 U.S.C. § 103(a) are respectfully requested.

Additional comments

Applicants noted that at several points in the arguments made in response to the previous Office Action the terms “polypropylene” and “HDPE” were inadvertently transposed with each other. In particular, at page 5, lines 17-28 of the previous response filed September 12, 2006, several such inadvertent transpositions were made. Applicants wish to note for the record that the present claims are directed to HDPE, not to polypropylene, and that the EP ‘161 reference is concerned primarily with polypropylene, not HDPE.

Specifically, at page 5, lines 17-18 of the previous response, it was stated “...the **polypropylene** recited in the present claims.” It is clear that these lines should have stated “...the **HDPE** recited in the present claims.”, since the present claims are directed to HDPE, not to polypropylene.

In addition, at page 5, lines 21-23 of the previous response, it was stated that “The **polypropylene** materials of the present invention are different both structurally and functionally from the **HDPE** films disclosed in EP ‘760.” It is similarly clear that Applicants intended to state that “The **HDPE** materials of the present invention are different both structurally and functionally from the **polypropylene** films disclosed in EP ‘161.”

The intent of the arguments made in Applicants’ previous response was clear, even though the terms were inadvertently transposed. As such, Applicant is making the present clarifying statements in the present Amendment solely to correct any misinterpretations based on these inadvertent transpositions.


CONCLUSION

In view of the foregoing amendments and comments, it is respectfully submitted that the present application is fully in condition for allowance, and such action is earnestly solicited. If any minor issues remain which could be resolved by telephone, the Examiner is invited to contact the undersigned at the number provided below.

Respectfully submitted,

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